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Before the
Federal Communications Commission
Washington, DC 20554

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In the Matter of)
)
Implementation of the)
Subscriber Carrier Selection)
Changes Provisions of the)
Telecommunications Act of 1996:)
)
Policies and Rules Concerning)
Unauthorized Changes of Consumers')
Long Distance Carriers)

CC Docket No. 94-129

Reply Comments of

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VoiceLog LLC submits these Reply Comments on September 30, 1997 regarding Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers, CC Docket 94-129.

Summary

In these Reply Comments, Voice Log LLC responds to the comments of various parties regarding the effectiveness of Third Party Verification ("TPV"), the need for standards in the form, content and manner in which TPV is conducted, and specific comments regarding proposed requirements of TPV.

Voice Log argues that TPV standards should be developed, but that these standards should focus more on the goal than the means of TPV in order to allow innovation in the area of TPV.

Voice Log's Reply Comments focus on three specific areas:

1. What is the best means to verify consumer agreement with Preferred Carrier ("PC") changes?
2. What is the best means to ensure compliance with verification requirements?
3. How can the FCC best balance the competing objectives of effective verification and promoting competition.

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Although it is clear that no one method of verification is superior in all cases, there is strong agreement among most commenters that Third Party Verification ("TPV") and Letters of Agency ("LOAs") are the leading contenders for effective verification. (We have included two appendices which offer comparative analyses of TPV to other verification methods.) Both forms of verification offer the following advantages:

- Both result in some form of notice to the consumer regarding the nature of the PC change
- Both can result in a tangible record of the consumer's agreement with a PC change
- Both are subject to post-hoc audit with a substantive audit trail available.

These advantages are distinct from the "Welcome Package", which offers a notice to the consumer only if it is delivered and read, results in no tangible record of consumer agreement, and provides little, if any, audit trail. Electronic verification, it should be noted, is so little used, that its advantages and disadvantages are almost irrelevant.

LOAs are, of course, virtually useless in a telemarketing transaction - whether inbound or outbound, since many consumers will not take the affirmative action of returning a signed LOA, even if mailed to the consumer with pre-paid return postage. The loss of those consumers as sales greatly increases the cost of sale to a competitive telephone company, and discourages them from soliciting additional customers. The subsequent loss of competition plays directly to the interest of incumbents who profit both from higher customer retention and their ability to more easily afford the higher cost of soliciting customers.

In addition, Third Party Verification offers some consumer protection advantages not available via LOAs:

- TPV can be used to provide a notice of the nature of the transaction to the consumer. Voice Log generally uses the introduction: "This call will confirm your selection of XYZ telephone company and will be recorded." Other TPV vendors may provide similar notices.
- The oral notice in TPV is accessible to everyone, while the written LOA notice will not be available to the functionally illiterate, estimated at as much as 44 million adults.
- Recorded TPV provides a recording of the consumer's oral authorization, which includes tone of voice, possible hesitation, and other clues that may suggest doubt in the consumer's mind. A signature on an LOA is only a signature, and offers no clues about consumer doubts or concerns regarding the transaction. If a customer is coerced or misled into signing an LOA, there is no record of that. In a TPV transaction, the record, especially in the case of widespread consumer abuse, will be much more apparent.
- TPVs - especially if recorded - are more difficult to forge than LOAs. The average time to complete a Voice Log TPV transaction is about two minutes. In two minutes, assuming four seconds per signature, we estimate that at least 30 LOAs can be forged.
- TPVs can provide additional fraud protection. BCI Corp.'s use of ANI verification and Voice Log's use of speaker verification technology are two examples of how TPV can use additional corroborating information to confirm that a legitimate PC transaction took place. Importantly, both Voice Log and BCI's processes can be implemented in an "early detection

mode", to identify slamming behavior before the consumer complains. LOAs provide no such additional protection and are only useful in a post-hoc review.

- Voice Log TPV transactions are more easily reviewed than LOAs. Although we cannot speak for other TPV vendors, Voice Log clients can produce a TPV recorded transaction in a few seconds, using a three-way conference call. LOAs must be retrieved from archival files, copied and mailed to the reviewer, with a minimum time frame of one day.

- TPV can be used wherever there is a telephone. Even where LOAs might be used, TPV is available. For example, Voice Log has developed a process in California where sales personnel give the consumer an 800 number which the customer calls to provide verification of the transaction. Unlike electronic verification, the process captures the customer's oral authorization and does not require the capture of ANI. Although more expensive than LOAs in the in-person sales context, TPV offers operational advantages to the telephone company which may offset the higher cost of TPV.

While TPV offers these advantages, it is not yet the perfect tool to eliminate slamming. Various commenters provided observations about the shortfalls of TPV. Given the number of supporters of TPV and the range of activities commenters suggested they support, this is a critical issue. Voice Log summarizes various issues below and offers some responses and solutions.

First, TPV is not very well defined in the regulation. As Voice Log and others have noted, there are no regulations at the Federal level regarding who is or is not qualified to be a TPV provider, no specifications about the script to be used, no requirement for recording, and no comment as to the environment in which the TPV may be conducted.

While Voice Log appreciates, and agrees with all of these concerns, we are concerned that too specific a definition will stifle innovation in the TPV area. As the comments of Voice Log, TPV Services and BCI Corp. make clear, there are new developments in the area of TPV, many of which offer lower costs, better operational results and greater consumer protection. Voice Log is concerned that the Commission may adopt requirements which inhibit further innovations while failing to advance consumer protections.

Voice Log offers these suggestions for the form and conduct of TPV transactions, both to address the above concerns and to avoid inhibiting innovation:

TPV Guidelines: Orally based verifications, whether inbound or outbound, should follow these guidelines:

(1) All transactions are verified by an independent third party using verification methods specified by the verification and subject to review and approval by the FCC. All TPV providers must be registered with the FCC and are subject to being barred from TPV activity by the FCC;

(2) All verification transactions must be audio recorded in their entirety, whether by conventional tape recording or digital means;

- (3) The call may be initiated by either the subscriber or the telecommunications company, with the subscriber's permission;
- (4) The confirming questions may be asked either by (a) the system itself, using computer generated or recorded speech, (b) representatives employed by the third party verification service or (c) representatives of the telecommunications company. However, if confirming questions are asked by the telecommunications company representative, the recording must be conducted by an independent third party and include all of the verification dialogue and the representative must not engage in sales or promotional activity during the verification portion of the transaction;
- (5) All questions will be asked following a script supplied by the call recording service and available for review by the Federal Communications Commission. The script must include a statement that the purpose of the transaction is to change the customer's preferred carrier. The use of confirming information to verify the consumer's identity may be through ANI, voice prints, dialed digits from the telemarketing center, PINs, social security number, date of birth or any other process which the FCC may approve;
- (6) The verification process will be conducted in the same language as that of the original telemarketing call;
- (7) Recorded calls will be audited at least quarterly by the call recording service using statistically valid sampling techniques;
- (8) Recorded calls will be maintained for review by the affected customer for no less than 90 days after the local exchange or PIC change order has been submitted and will be maintained by the recording service or telecommunications company for at least one year;
- (9) Recorded calls will be available for Commission review within 48 hours of request by the Commission.

These guidelines provide specific guidance to carriers where none exists today (for example, in the case of whether a sales representative may be on-line during the verification) but do not specify the exact method of verification. They provide sufficient latitude for vendors to develop effective and efficient solutions for verification while providing a mechanism for the Commission to regulate the verification process and prohibit abuses. In addition, they require that a complete record of the transaction be created and retained, addressing the concerns of many state regulators (see for example, Comments of Public Staff - North Carolina Utilities Commission, p.10,11).

Second, TPV vendors are not regulated. As Quick Response notes, there are a number of TPV vendors that are not independent in any reasonable sense of the word, and who cater to those companies wishing to meet the regulation without regard for accuracy. Requirements regarding independence, competence, and other qualifications should be developed for discussion. In addition, a certification process which provides for the elimination of incompetent or malfeasant vendors should be adopted.

Third, there is no check to insure that TPV (or any verification) actually occurs. Although we agree with the comments of many that incumbent carriers should not be in the position of reverifying sales, it is ironic that carriers can submit PC orders with no proof that any verification took place. Carriers should at least be required to identify their means of verification, the vendor - if any, and certify that the orders were verified by one of the approved methods. This requirement will also aid in the data gathering process which Sprint and others so correctly note is lacking.

In addition, the requirement of an audio recording of the full transaction helps to ensure that the verification actually took place, since the carrier without recordings will automatically be identified as not complying with the regulation.

With regard to various comments by other parties, Voice Log offers the following:

1. TPV vendors should not provide a shield for telecommunications companies.
TPV Services, Inc. suggests that the TPV vendor be fully liable for errors in the PC selection process and absolve the carrier from all liability (Comments of TPV Services, p.11). In our view, this is naive, unnecessary and reckless. Only the carrier is in control of the sales processes, training and supervision of the sales representatives who solicit orders from customers. While TPV vendors provide some level of control, this control is strongly supported by most companies own internal controls. By absolving carriers of all responsibility, this proposal would provide a virtual license to slam. Furthermore, it is easy to imagine unscrupulous carriers creating shell entities to act as TPV vendors, creating a shield against enforcement.
2. ANI verification is impractical and not necessary (although it may be a good idea).
BCI Corp. argues that ANI verification should be required for all calls. Voice Log understands that BCI Corp. has developed a process which captures the digits dialed by telemarketing companies to confirm that telephone number of the PC transaction is actually that of the customer being called. We have several concerns about this proposal:
 - We understand that BCI Corp. intends to patent this process and treats it as a proprietary process. Mandating that all carriers use a process in the control of one vendor is a bad idea.
 - There is no evidence that carriers using legitimate TPV vendors without the ANI verification process contribute substantially, if at all, to the slamming problem. Indeed, MCI's reported results of success with TPV do not include this process.
 - There are legitimate instances in which a customer places an order for a PC change from a different telephone from the one affected.
 - There are alternative technologies available to accomplish the same aim. Voice Log has developed several processes using speaker verification technology to avoid the problem of sales representatives who recruit customer impersonators.
3. PINs are probably not practical.
While we appreciate the objective of the National Consumers League and other commenters regarding the use of PINs, such a scheme should not be mandated (although it could be allowed). Many consumers will find a PIN-based scheme to be clumsy, irritating and frustrating. Similar results can be had using the ANI verification process

suggested by BCI, the speaker verification process suggested by Voice Log and other processes which may be developed by innovative vendors yet to be heard from.

4. Sales representatives should be allowed on the verification call.

While we appreciate the concern of National Association of Attorneys General (see their Comments, p.17) that sales representatives not participate in the verification process, there are legitimate purposes for them to do so, as long as it is appropriately controlled. For example, the sales representative can answer questions regarding the offer to the customer without having to end and restart the verification transaction. In addition, keeping the sales representative on the telephone can actually help regulate sales representative abuses, since the representative can be questioned by the consumer during the recorded verification, exposing any misleading comments to the light of day. Finally, we would note that the sales representative is inherently party to the LOA process so it would be incongruous for the Commission to accept this argument and still allow the use of LOAs.

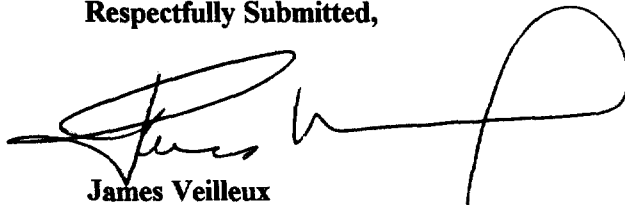
5. The Commission should support responsible innovation in TPV.

A number of parties, including Quick Response, BCI Corp., and TPV Services, Inc. either disparage competing vendors or argue for specific solutions which they control. While there is no question that some TPV vendors are incompetent, irresponsible or in collusion with their client carriers, Voice Log believes that encouraging innovation in TPV will ultimately result in higher quality results at a lower cost, enabling the Commission to impose verification requirements on a wider range of transactions without crippling competition among carriers. Voice Log suggests, therefore, that the Commission focus on the goals of the verification process - ensuring that the customer understands the transaction, that the customer provides an affirmative response, that the process is not unduly influenced by sales pressure, that there is a complete and auditable record of the transaction, and that the carrier adhere to the verification process - and avoid overspecifying the means by which these goals are achieved.

Conclusion

Voice Log has reviewed the various comments regarding verification methods and has offered a set of guidelines to enable Third Party Verification to be the most effective and efficient means of verifying customer PC changes. These guidelines will encourage innovation and inhibit abuse of the process, resulting in reduced slamming with little or no negative impact on competition.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'James Veilleux', with a large, stylized loop at the end.

James Veilleux
President

Recorded Third Party Verification

Advantages vs. Human Operator Verification

presented by VoiceLog LLC

January 27, 1997

Overview

- ◆ Explanation of VoiceLog
 - ◆ Demonstration
 - ◆ Implementation options
- ◆ Benefits of Recorded Verification
 - ◆ More effective
 - ◆ More efficient
- ◆ Recorded verification meets the regulations

Third Party Recorded Verification Description and Demonstration

- ◆ Description
- ◆ Demonstration
- ◆ Two methods of implementation
- ◆ Comparison to other methods

Third Party Recorded Verification Is More Effective

Recorded Verification

- ➔ Captures verbatim record of the transaction

- ➔ Captures actual words used, tone of voice

- ➔ More complete record: customer can ask questions, answers captured on recording

- ➔ Verbatim record allows qualitative judgments

- ➔ Voice identification, SSN, DOB can confirm customer identity

Human Operator Verification

- ← Abstract record of the actual transaction

- ← Captures customer agreement to confirmation questions

- ← Customer questions referred back to IXC rep

- ← No standards specified for TPV, limited record to review

- ← Confirmation of customer identity based on SSN, DOB

Third Party Recorded Verification Is More Effective

Recorded Verification

➔ Resulting record is easily reviewed

➔ Third party system makes access easily available to IXC, customer and regulators

➔ Customer review can quickly resolve complaints

➔ Regulator review allows fast enforcement action

Human Operator Verification

⬅ Reviewable record limited to notation in computer file

⬅ Human verifier can provide access to abstract only; process is unclear

⬅ Customer review can be slow, unsatisfactory for customer

⬅ Regulator review requires slow process investigation

Third Party Recorded Verification Is More Effective

Recorded Verification

- ➔ Verbatim record available for three years

- ➔ Statistical sampling available for proactive quality control by IXC management, third party verifier, identifying impersonators

- ➔ Recordings deter abuse of process

Human Operator Verification

- ← Operator will not remember transaction, may not be available due to turnover

- ← Quality control check is dependent on customer complaints, neither IXC nor verifier can confirm SSN, DOB without customer complaint

- ← Third party verifier deters some forms of abuse, can't detect impersonators

Deterrent Value of Recording

“...I found [tape recording calls] useful in several ways, one as a deterrent to your agent staff...to ensure they give you the best quality and say things to customers that you feel are appropriate. Second, as quality assurance...we could also monitor by use of the tapes.” Gary Ramirez, former VP and Manager, On-line Customer Service, Premier Customer Service, Wells Fargo Bank

“It’s extremely important to our business as a service agency to promote ethical behavior and the utmost quality over the telephone...monitoring, taping and daily coaching and counseling on calls are how I ensure the delivery of quality services for our client base. Taping our workforce helps the team focus on script adherence, true customer service, and ethical salesmanship.” Tom Rocca, Board Member, American Telemarketing Association, President-Elect, Society of Consumer Affair Professionals, President, PROTOCOLL

“When a telemarketing rep knows they’re being monitored and/or recorded...they are absolutely on their best behavior.” Terry Campbell, Vice President of Legislation for Northern California Chapter, Regional Chair for National Legislation, American Telemarketing Association, independent TM consultant

Third Party Recorded Verification is More Efficient

- ◆ Significantly less expensive
 - ◆ \$0.45 - \$2.50 per transaction vs. \$1.00+ - \$5.00
- ◆ Easier to manage
 - ◆ No personnel scheduling issues
 - ◆ Accommodates wide swings in volume easily
 - ◆ Easily accommodates other languages
- ◆ Encourages competition
 - ◆ Small carriers at less of a cost disadvantage
- ◆ Prevents abuse of carriers
 - ◆ Some consumers falsely claim slamming to avoid LD bills

“Many times customers do not fully remember or forget what they said, what they instructed you to do, or what they agreed to buy. ...[H]aving the tape also makes them realize that they indeed did do or say or ask you to do what they claimed they didn’t.” Gary Ramirez, former VP and Manager, On-line Customer Service, Premier Customer Service, Wells Fargo Bank

Recorded Verification Meets the Requirements of 47 C.F.R. 64.1100

- ◆ A flexible interpretation of the regulation is warranted
- ◆ Third party recorded verification allowed under a reasonable interpretation of 47 C.F.R. 64.1100
- ◆ Third party recording ensures effective verification
- ◆ Identity of the questioner is not important

A Flexible Interpretation of TPV is Warranted

- ◆ FCC's original intent was to provide flexibility
 - ◆ Much detail omitted from proposal to final rules
 - ◆ Three other methods provided to increase flexibility
- ◆ Objective of the rules should be the focus of interpretation:
 - ◆ "...protect consumers against unwanted changes in their long distance service."
- ◆ Recording was not rejected:
 - ◆ "...have not presented sufficient evidence to enable us to judge the efficacy of on-line verification supplemented by recording."
- ◆ Consistent with FCC's regulatory philosophy
 - ◆ "Procompetitive, deregulatory... that is our mantra..." FCC Chairman Hundt

Third Party Recorded Verification Allowed Under a Reasonable Interpretation of 47 C.F.R. 64.111

- ◆ “appropriately qualified” - defined in the record as transaction capacity - VoiceLog meets
- ◆ “independent third party”
 - ◆ “independent” modifies “third party”, not the process
 - ◆ Third Party Recorded Verification is independent
- ◆ “obtained” - “to gain possession of”, the recording-based verifier has possession of the call record
 - ◆ “...*evidence* totally independent of the IXC...” (emphasis added)
- ◆ “confirms and includes appropriate verification data” - Third Party Recorded Verification offers the most complete data possible - a verbatim record

Third Party Recording Ensures Effective Verification

- ◆ Recorded preamble establishes purpose of the call
 - ◆ “Thank you for calling the VoiceLog system. The VoiceLog system is designed to confirm your decision to change long distance carriers. After the tone, this conversation will be recorded and the answers you provide will be used to verify your order to change your long distance carrier.”
- ◆ Scripting is controlled by independent verifier
- ◆ Auditing provided by verifier
- ◆ Resulting record is best evidence of authorization
 - ◆ The evidence is not controlled by the IXC, thus meeting the Commission’s intent: “...*evidence* totally independent of the IXC’s marketing operations.” (emphasis added)

Third Party Recording Ensures Effective Verification

- ◆ Recording is well accepted to authenticate transactions:
 - ◆ FTC Telemarketing Sales Rules
 - ⇒ Recording used to verify telephone demand drafts against consumer checking accounts.
 - ◆ SEC/National Association of Securities Dealers
 - ⇒ Recordings used to deter/document misbehavior at securities firms
 - ◆ Kentucky Public Service Commission
 - ⇒ Requires “electronic verification” of PIC changes; staff discussion indicates that recordings desired to ensure record of actual transaction
 - ⇒ Approves: “...there must be objective evidence that the customer...actually agreed...and understood the nature of the change...the legitimacy of VoiceLog as the confirming third party does not appear to be a problem.”
 - ◆ Florida Public Service Commission
 - ⇒ Recordings required in current draft of proposed regulations (final regulations, may, of course, differ from current draft)

Comparison of PIC Change Verification Methods

	Electronic Verification	Written LOAs	Mail Confirmation	Human TPV	Recorded TPV No Speaker Verification	Recorded TPV Speaker Verification
Customer identification	Originating telephone number	Depends on signature	Mail sent to specific customer	SSN, DOB	SSN, DOB, Voice	SSN, DOB, Voice, Voice Print
Resulting record	Computer file record of ANI, dialed digits	Signed LOA	Computer file record of mailing	Computer file record of operator's entry	Verbatim audio recording of transaction	Verbatim audio recording of transaction
Forgery opportunities	Simulated ANI - requires technology	Easily forged in quantity	Forged record of mailing	Reps recruit customer impersonators	Reps recruit customer impersonators	?????
Weakest aspects	Not used - little customer follow through	Forgeries, rep misrepresentations	No audit trail, little usage by carriers	TPV rep turn-over, customer impersonators	IXC reps on call, customer impersonators	Automation, need IXC reps on call
Format & presentation standards	Few	Extensive	Extensive	Few	Few	Few
Content standards	Weak	Extensive	Extensive	Few	Few	Few
Other process controls	Automated process	None	None	Independent verifier, verifying data	Recording, automated, verifying data	Recording, automated, verifying data
Literacy requirements	Some technological literacy important	Inaccessible to the illiterate (44 million)	Illiterates can be victimized easily	Accessible to almost all	Some technological literacy important	Some technological literacy important
Availability issues	Touch-tone, ANI areas only	Literacy	Literacy	Universal	May require touch-tone	Universal, with voice recognition
Accommodates other languages	Potentially, but may be difficult to implement	Language requirements	Non-English speakers easy victims	No requirements - adaptable	No requirements - adaptable	No requirements - adaptable
Requires independent customer action	Yes	Yes	Yes, to decline	No	No	No
Access for review	Easy by phone, slow by mail	Difficult to produce	Record of mailing - slow to access	Slow - by mail or fax	Easy by phone	Easy by phone
Audit trail	Strong	Strong	Weak	Strong	Strong	Strong
Rep presence during verification	No contact	In-person contact	No contact	Telephone contact allowable	Telephone contact	Telephone contact allowable
Cost of verification	\$0.45 - \$2.50	\$0.05 - \$0.25, plus paper management	\$0.40 - \$1.50	\$1.00+ - \$5.00	\$0.45 - \$2.50	\$0.65 - \$2.75